

Tips for Applicants: Federal Fiscal Year 2006 Federal Brownfield Grants
(October 2005)

***Disclaimer:** These tips are Wisconsin DNR interpretations of the federal guidelines.
See the federal guidelines for complete application requirements.*

1. **The application:** Applications to EPA must be postmarked by December 14, 2005. For instructions on electronic submittals, see <http://www.grants.gov/>. EPA does not accept faxed submittals.
 - Submit a complete, separate application for each grant - do not reference information in other applications. Each application requires its own cover letter, signed by a local official with the authority to implement the grant.
 - Tip: Applications should be concise and must be organized in the format provided by EPA, without binders or colored text. EPA does not consider photos and does not consider generalized statements that are not specific to the proposal. Be sure to use the budget format that EPA has provided.
2. **Decide what you need:** Determine which of the three types of federal grants you will apply for. Revolving loan funds (RLFs) are fairly complex and present a lot of administrative work for small communities. Decide whether your application will be for petroleum, hazardous substances, or both. Cleanup grants must be site specific; RLF grants may not be site-specific, and assessment grants may be either.
3. **Getting started:** What should applicants do first?
 - a) Initiate the community notification process. You must create an opportunity for receiving public comments on your grant proposal before you submit it to EPA. This should include, at a minimum, a public notice seeking comment on this specific grant application. You must also list community organizations that are interested in or affected by your proposal as part of the ranking criteria in your application.
 - b) Request a letter of support from DNR, including a statement of eligibility if the site in your application is contaminated only with petroleum. A copy of DNR's letter must accompany your application to EPA. See more about these letters under item #6 below.
 - c) For revolving loan funds (RLFs), obtain the necessary opinions from your legal counsel. These must be included with your application. The first legal opinion must address your authority to access and secure sites, and the second must address your legal authority to manage a loan fund.
 - Tip: At least one previous successful applicant has satisfied the RLF requirement to prove legal authority to manage a loan fund by contracting with a bank to perform this function
 - Tip: Successful applicants for RLFs may require sub-grantees and loan applicants to pay DNR technical review fees in order to help ensure that their cleanup plans and actions will be appropriate.

4. **Getting help:** EPA will respond to questions about their threshold criteria for eligibility, including the sometimes-problematic timing of property ownership. See the date of property purchase chart for more information.
 - Wisconsin applicants with questions should contact Deborah Orr at: EPA, 77 West Jackson Boulevard, Chicago, IL 60604-3507; phone 312- 886-7576; Fax 312- 886-7190; email orr.deborah@epa.gov.
5. **Threshold criteria:** The application process requires answers to a number of threshold questions for each of the three types of grants. *Be careful - these are pass-fail questions.* The threshold criteria for each type of grant are shown below:

Assessment Grant	Revolving Loan Fund	Cleanup Grant
A. Applicant eligibility	A. Applicant eligibility	A. Applicant eligibility
B. Community notification	B. Jurisdiction Boundaries (new requirement in 2006)	B. Community notification
C. Letter of support from state environmental authority	C. Community notification	C. Letter of support from state environmental authority
D. Site eligibility and property ownership (for site-specific applications only)	D. Letter of support from state environmental authority	D. Site eligibility and property ownership (cleanup grants must be site-specific)
	E. Cleanup authority & oversight Structure	E. Cleanup authority & oversight structure
	F. Cost share	F. Cost share
	G. Legal authority to manage a fund	

- Tip: The “Cleanup Authority & Oversight Structure” section may be addressed by referring to DNR’s regulatory authority to approve environmental investigations and cleanups under s. 292, Wis. Stats. and the NR 700 series of administrative rules. Applicants with environmental consultants may also refer to their standard operating procedures and quality assurance plans.
- Tip: The “Applicant Eligibility” section is important. EPA’s guidelines state that response costs are not eligible if the applicant is potentially liable for cleanup under Superfund. The method and the date of acquisition by purchase affect Superfund liability, and therefore grant eligibility. The following chart is a summary relevant to properties that have been ***purchased***.

Date of Property Purchase	Requirements	Property Status	Landowner Status
Before May 1997	Not applicable	Contamination exists and action may be taken under Superfund.	Superfund liability may apply. The site is not eligible.
After May 1997 but before January 11, 2002	Purchaser has complied with EPA's "all appropriate inquiry" requirement (see below)	"All appropriate inquiry" has <u>not</u> identified contamination and the purchaser is not affiliated with a liable party	Innocent landowner status or contiguous property owner status. Superfund liability may not apply, the site should be eligible.
After January 11, 2002 brownfield amendments to the Superfund law	Purchaser has complied with EPA's "all appropriate inquiry" requirement	"All appropriate inquiry" may have identified contamination that occurred prior to purchase, but the purchaser is not affiliated with a liable party.	Bona fide prospective purchaser status. Superfund liability may not apply, the site should be eligible.

- Tip: See EPA's fact sheet on conditional liability protection for bona fide prospective purchasers, contiguous property owners and innocent landowners at <http://www.epa.gov/compliance/resources/policies/cleanup/superfund/common-elem-ref.pdf>
 - Tip: What is "all appropriate inquiry"? EPA has proposed but not promulgated regulations. In the interim, EPA's "Common Elements" (see the previous web link) states that "an ASTM Phase 1 report may satisfy the standard." In addition, property owners should take necessary actions to contain the spread of contamination and to protect the public.
6. For your "**Letter of support from the environmental authority**", please contact Laurie.Egre@dnr.state.wi.us no later than **December 1, 2005** with the following information:
- a) Type of grant(s) being applied for [assessment, revolving loan fund (RLF), or cleanup],
 - b) Name and mailing address of the person to whom the letter should be addressed,
 - c) Addresses of brownfield properties relevant to the application, or a general description of brownfield areas in the community. (Assessment applicants are not required to identify specific properties, RLF applicants are not allowed to.),
 - d) The Bureau for Remediation and Redevelopment Tracking System (BRRTS) identification number(s) if a contaminated property is already known to DNR,
 - e) A brief description of historic property uses, known or suspected contaminants and how the contamination may have occurred,
 - f) A brief description of the applicant's redevelopment plans for the properties or the area,
 - g) A brief description of the community's need for the federal grant,
 - h) For petroleum contaminated sites, also specify:
 - The current property owner, occupant, and the immediate past owner of the property,
 - The method by which the current owner acquired the property,
 - When the petroleum contamination is likely to have occurred and who may have caused it; especially whether the current and immediate past owners have any relationship to the cause of contamination,
 - Whether any current or prior owner or occupant is subject to a state or federal enforcement action related to environmental contamination, **and** has the financial resources to comply. EPA's has detailed guidance on ability to pay at: <http://www.epa.gov/Compliance/cleanup/superfund/prpmanual.html>
 - Reasons why any of the above information may not be available.

7. **The ranking criteria:** If the grant applicant determines that the proposed site meets the federal threshold criteria described above, the next step is adding information to the application for EPA's ranking (scoring) criteria.

- **Tip: Answer the ranking questions carefully**, referring to the federal guidelines. EPA does not ask for clarification of the ranking questions if the application is not clear.

The following table summarizes the points available for each ranking criterion. **The point system again differs from last year's federal brownfield grant guidance.**

Type of Grant >	Assessment Grant	Revolving Loan Fund	Cleanup Grant
Proposed Grant Budget	10	10	10
Community Need	15	15	15
Site Selection Process	6	5	
Business Plan for Revolving Loan Fund		24	
Sustainable Reuse	12	12	12
Greenspace or Non-Profit Purpose	5	5	5
Community Involvement	16	16	16
Reduction of Health & Environmental Threats	20	21	21
Leveraging Resources	10	12	10
Ability to Manage Grants	15	15	15
Total Points Available	109	135	104

- **Tip:** The "Other Factors" section (page 52 of the guidelines) allows EPA to take into consideration factors such as:
 - distribution of funds to both rural and urban communities,
 - federally designated Empowerment Zones,
 - federally designated Enterprise Communities,
 - federally designated Renewal Communities,
 - environmental justice (disproportionate impact on low-income & minority populations),
 - federally recognized tribes, and
 - federal recognition (DOJ) for Weed and Seed.
8. **More about petroleum contamination** – EPA has reserved 25% of the total grant funds for assessment and cleanup of petroleum contamination. The applicant must not have caused the petroleum contamination, and must also indicate that *there is no other viable responsible party* to undertake the cleanup.
- **Tip:** The federal guidelines define petroleum-contaminated sites for which there is a *viable responsible party* as sites with these factors:
 - there is a party that is subject to a current or pending administrative order or court judgment that requires investigation or clean up of the site, or there is a citizen suit that petitions for these actions, **and**

- at least one of the responsible parties is financially capable of taking the required actions.
- Tip: To find information about potential orders or judgments at petroleum contaminated sites, applicants may access DNR's database of contaminated sites (BRRTS) at <http://botw.dnr.state.wi.us/botw/Welcome.do>. In addition to checking the "actions performed during this activity" for administrative orders or referrals, you may contact the state "project manager" shown in BRRTS to confirm whether DNR has initiated enforcement actions. For sites under the jurisdiction of the Department of Commerce, please see site review staff contacts at: <http://www.commerce.state.wi.us/ER/ER-ERS-Mail.html>
- Tip: Petroleum contaminated sites must be relatively low risk. The federal guidelines define low risk as sites that are not subject to response under the Oil Pollution Act (OPA) and not being cleaned up using LUST trust fund monies.
 - The OPA of 1990 addresses catastrophic oil spills, requiring oil storage facilities to submit to EPA plans detailing how they will respond to large discharges. For more information, please see <http://www.epa.gov/region5/defs/html/opa.htm>
 - LUST trust monies are federal funds used when the state and EPA agreed to contract with a private consultant for environmental work because no responsible party was known or was willing and able to proceed with cleanup. You may contact Laurie Egge, DNR at 608-267-7560 to determine whether LUST trust monies have been used at a petroleum-contaminated site in Wisconsin.

Good luck! EPA plans to notify applicants that have made ineligible applications first. Successful applicants should be notified by May of 2006.